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7/31/01
WPA
ORIGINAL

IN THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM DONALD MARSHALL

Petitioner,

CASE # 1:CV-01-0949

vs.

FILED
HARRISBURG

J. Rambo

JUL 9 0 2001

MOTION FOR

MARY E. D'ANDREA, CLERK
Per [Signature] EMERGENCY

ROBERT L. RAIGER, DEPUTY CLERK

PROTECTIVE ORDER

Respondent,

Comes now Petitioner who respectfully seeks an
emergency protective order to enforce the provisions
of 28 USC Rule 23(a) of Federal Rules of Appellate
Procedure as more fully supported by the following
facts asserted herein under oath pursuant to 28 USC
1746.

By order dated July 18, 2001 this Honorable Court

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'dismissed' petitioner's Petition for Writ of Habeas Corpus without prejudice for want of exhaustion of all state remedies which too lifted its Rule 23(a) of Federal Rules of Appellate Procedure enforcement order of June 5, 2001 at paragraph #4.

Petitioner sought such Rule 23(a) enforcement orders in view that Respondent have frequently caused prisoners to be extradited to other states prior to being afforded the right to exhaust all state and federal court remedies as secured and protected by the laws and Constitution of the United States and the State of Pennsylvania. Petitioner's claims are quite evident not only by Respondent's Second Answer to Petitioner's Petition for Writ of Habeas

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Corpus at paragraph #3, but by virtue of statements made to Petitioner on date of this motion, during an interview from his Public Defender, Scott Stein which revealed not only a conflict of interest as sustained in Strickland v. Washington, 466 U.S. 668 but where such statements even surprising to Petitioner clearly gives rise to fact that petitioner's attorney is both civilly and criminally implement-
ing arrest on his own while too conspiring with the Lebanon County District Attorney to act on his own and with each other, to cause Petitioner to be ex-
tradited to the State of Virginia wherein they know having been told by petitioner that his life is in extreme danger as result of his former occupation

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as a free-lance paralegal having contracted service
to Civil Rights Division of U.S. Dept. of Justice re-
garding jail and prison conditions. Petitioner contends
and feels that such deliberate disregard for petitioner's
rights by planned acts of Respondent's agent and
petitioner's own Public Defender Scott Stein to
cause extradition of petitioner prior to affording him
his rights to appeal thus exhausting all state
remedies prior to review as would be in compliance
to this court's order of July 18, 2001; thus reflects that
said Public Defender and State Attorney might be
in violation of 18 USC 241 and/or 242 as referenced
by the following courts:

Dennis v Sparks, 101 F. Ct. 183; 449 US 24
State judges may be found criminally

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liable for violations of civil rights even though the judge may be immune from damages under section 1983 of title 42 USC.

Briscoe v. La Rue, 103 F. Ct. 1108; 460 US. 325
Like prosecutors and judges; officials may be punished criminally for wilful deprivation of constitutional rights.

Private persons, jointly engaged with State officials in prohibited actions under color of law, are acting under color of law.
M. J. v. Lynch, 94 F. Supp. 1011; affirmed 189 F.2d 476, cert. denied 72 S. Ct. 50; 342 US. 831.

Davage v Arnold, 403 F. Supp. 172; ED Pa. 1975
Court may refer citizen's complaint to U.S. Attorney for possible prosecution under 18 USC 241 or 242.

It is quite evident that Respondent intends to deliberately violate petitioner's right to appeal from any adverse decision by the Lebanon County Court of Common Pleas as scheduled during mid-week on or about July 31.

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or August 1, 2001 by causing his immediate extradition to State of Virginia by statement contained in paragraph #3 of Respondent's Second Answer to Petitioner's Petition for Writ of Habeas Corpus which asserts:

"While the Petitioner is currently challenging extradition in the state court, Respondent is precluded from extraditing Petitioner until this Honorable Court disposes of Petitioner's Petition for Writ of Habeas Corpus."

Petitioner contends, that it is evident and conclusive, from the quoted statement above, that once Petitioner has exhausted his initial remedy before the Lebanon County Court of Common Pleas as scheduled for on or about August 1, 2001 since Respondent uses in the above quoted statement the singular term of 'court'

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as opposed to 'courts' as would be the plural term
had Respondent intended to afford Petitioners the right
to exhaust all state remedies such as Superior Court
and Supreme Court as state appellate courts prior to
seeking federal court review as this court now re-
quires but which Petitioners cannot perform without
this court issuing an enforcement order to aid Rule
23(a) of Federal Rules of Appellate Procedure. In as-
much as the very mandatory language of Rule 23(a)
does not normally require an enforcement order by
the court in aid thereof, as adhered to by other states,
by practice and evident plan of Respondent, without
an enforcement order to Rule 23(a) Petitioners at hand
if Respondent will be immediately extradited to State

of Virginia subsequent to disposition in Lebanon
County Court of Common Pleas without being
afforded his rights under the laws and Constitution
of the United States and State of Pennsylvania, to
seek review by all State Appellate Courts prior to
review by this court, as required by this Court's
order of July 18, 2001 which Petitioners believe this court
would assume Respondent would not obstruct Petitioners
in course of exhaustion of State remedies prior to this
court's review, but as Petitioners have pointed out will
not occur without an enforcement order to Rule 23(a).
Therefore, this court has jurisdiction to enforce
and thus preserving Petitioner's asserted rights to
exhaust all state remedies by issuing an enforcement

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order to aid Rule 23(a) of Federal Rules of Appellate Procedure as was effective in this Court's order of June 5, 2001 and reinstatement of such pending appeal to Third Circuit Court of Appeals would safeguard appellate review or in the alternative to issue enforcement order to Rule 23(a) while holding this court's jurisdiction to review after exhaustion of state remedies thru holding review in 'abeyance' pending Petitioner's exhaustion of all state court remedies, and for such other and further relief this Court deems proper and just.

I subscribe and swear to
on this 27th day of July,
2001 pursuant to 28 USC 1746.

Respectfully submitted
William Donald Marshall
Petitioner, Pro se.

URGENT!!

Lebanon County Prison
730 E Walnut St
Lebanon, Pa 17042
July 27, 2001

Clerk of Court
M.L District Court
228 Walnut St.
P.O. Box 983
Harrisburg, Pa 17108

Dear Sir/Madam,

Re: 1:01-CV-00949

Please find enclosed Motion for Emergency Protective Order.

Due to fact, that per that asserted in my enclosed motion as well as told to me today by my Public Defender I will be immediately extradited to Va. without appeal right after state habeas hearing scheduled on or about Wednesday Aug. 1, 2001.

Judge Rambo is not aware of state intent to preclude my exhaustion of state remedies so she can review. She is too not aware that my life is in extreme danger if extradited to Accomac County Va. prior to Justice Dept. investigation based on former occupation.

I pledge and beg and beg to please take this letter and motion to Judge Rambo upon receipt praying she will issue the needed enforcement order for Rule 23(a) FRAP.

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which due to critical time frame I pray she will fax
her order to Respondent as well as to the Honorable Robert
Ely of Lebanon County Court of Common Pleas.

I plead of you help upon receipt as I'm providing
total facts as to life threatening problems in Va as well
as not being afforded to exhaust my state remedies.

Please excuse my nervous writing, I am 63 years
of age and suffer from conditions of albinism.

Respectfully,

William D. Brasel

If I am scheduled to appear in Lebanon County
Court of Common Pleas, Hon Judge Robert Ely on or
about Wednesday - Aug 1, 2001, therefore I plead that
this letter or prayer for my life with motion is taken
before Judge Randolph, in order to potentially fax
Rule 23(a) enforcement order to Judge Ely as well as
State attorney David Brasel while mailing copy to all